

Environmental Defense Fund  
Natural Resources Defense Council  
Save San Francisco Bay Association  
The Bay Institute

December 9, 1998

Hon. Bruce Babbitt  
Secretary of the Interior  
U.S. Department of the Interior  
Washington, D.C. 20240

Dear Secretary Babbitt:

Thank you for taking the time to meet with us this morning. We appreciate your interest and leadership in the development of a solution to California's water management and ecological problems. We are gratified that as part of the process that you have initiated, CALFED is now seriously considering how to ensure that environmental water is available as necessary for the restoration of the Bay-Delta ecosystem.

The establishment of an Environmental Water Account for Delta export management could be an important tool for biological protection. However, the strawman proposal (Iteration #3, dated Dec. 8, 1998) produced by the Mike Spear and Tim Quinn discussions is flawed and rather than producing assurances of environmental water -- and related ecosystem restoration -- instead could lead to significant restoration problems. We are convinced that the institutional, political and operational issues associated with the Account are both too numerous and complex for lasting resolution in a couple of weeks. For this reason, we strongly recommend that the Revised Phase II Report address this issue at a more workable level by: (1) committing to the development of firm and assured environmental water as necessary to support fully the restoration program over the long term; and (2) setting forth the options that should be developed toward this end in the revised EIS/EIR. These include, at a minimum, instream water rights as well as various approaches to crafting an account for Delta export management.

The following concerns, which are not addressed by the proposal, must be fully resolved before an Account can be included in the CALFED preferred alternative:

1. Use of an Account is grounded on the premise that there is clarity and certainty about the water currently available or committed to the environment, and that water managed under the Account supplements this amount. Because there is intense disagreement on this point, establishing a firm environmental water baseline is essential.
2. Any Account will require precise accounting for a block of environmental water. Nevertheless, DOI has insisted (in the (b)(2) litigation) such accounting is not feasible. It is essential that we avoid the technical problems that have characterized the (b)(2) implementation and ensure that water guaranteed to the environment actually accrues.

3. As proposed, the Account appears to be tied to the expansion of surface water storage. However, it is not the case that new, or existing, storage facilities are necessary for an Environmental Water Account to function properly.

4. The proposal fails to include other options for securing environmental water, both within the Delta and upstream, such as an instream water right, and could be a hindrance to such options. The Phase II document must consider the full range of options for securing environmental water.

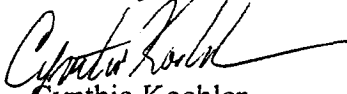
5. Some stakeholders have suggested in these discussions that there must be a "balance" between the amount of water made available for restoration and the amount of new water secured for consumptive use. The real balance is between the attainment of objectives for both ecosystem restoration and water supply reliability.

6. The proposal assumes that the ecosystem managers will make the right decisions for the environment so that varying the Delta export standards is appropriate. This is a difficult issue. We support the notion that increased flexibility could have significant benefits for aquatic resources. However, we are reluctant to consider removing the backstop of environmental protection (albeit insufficient) provided by the standards until we have a higher level of confidence that the ecosystem managers will have sufficient authority, and political insulation, to use such flexibility in the most appropriate manner. To the extent that this Account would serve as a principal ESA protection tool, this political question is even more acute.

Overall, the proposal has yet to be comprehensively analyzed to determine fishery benefits or even what size the Account would have to be in order to accomplish its objectives. It is premature to narrow the scope of such an Account until studies have been completed and the legal and policy assurance issues identified above have been resolved.

For these reasons, we urge you to continue to encourage the important task of assuring a sufficient water supply for the restoration program, as well as long-term maintenance beyond the program, and not to undermine this critical task by limiting the consideration of an Environmental Water Account to this particular proposal. Thank you for your consideration of our views. Our organizations look forward to working with you on a workable long-term solution.

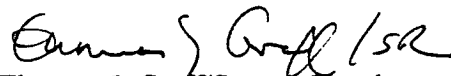
Sincerely,



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Save San Francisco Bay Association



Hamilton Candee/Ronnie Cohen  
Natural Resources Defense Council



Thomas J. Graff/Spreck Rosekrans  
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Gary Bobker  
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